



FILED
John E. Triplett, Acting Clerk
United States District Court
By MGarcia at 1:45 pm, Aug 11, 2020

**In the United States District Court
for the Southern District of Georgia
Waycross Division**

JENNER BENAVIDES, et al.,

Plaintiffs/Petitioners,

v.

PATRICK GARTLAND, et al.,

Defendants/Respondents.

No. 5:20-cv-46

ORDER

This matter is before the Court on Respondents' Motion to Dismiss the Petitioners' Amended Petition. Dkt. No. 47. In their motion, Respondents' argue, *inter alia*, that Petitioners have not alleged a cognizable habeas corpus claim under 28 U.S.C. § 2241. The parties did not, however, specifically address Petitioners' alternate theory that the Court may grant relief to Petitioners under equitable powers arising out of 28 U.S.C. § 1331 and the Fifth Amendment. See Dkt. No. 36 ¶¶ 202-207. The Court finds that briefing on this topic may be necessary to resolve Respondents' Motion to Dismiss. Therefore, the Court **ORDERS** the parties to submit supplemental briefing within seven (7) days of the date of this Order addressing the following question:

If the Court were to find that Petitioners' have not asserted a cognizable claim under 28 U.S.C. § 2241, would Petitioners nonetheless be entitled to seek relief under

any equitable powers or implied relief arising out of 28 U.S.C. § 1331 and the Fifth Amendment?

In briefing this topic, there is no need for either party to restate or elaborate on their arguments concerning Petitioners' specific causes of action asserting unconstitutional punishment, deliberate indifference, or violations of the Accardi doctrine. Rather, the supplemental briefing should be limited to the question listed above, assuming these specific causes of action are cognizable.

SO ORDERED, this 11th day of August, 2020.



HON. LISA GODBEY WOOD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA